In the High Court of Punjab and Haryana, Chandigarh

C.W.P. No. 17430 of 2006

Date of Decision: 6.11.2006

Suresh Bhardwaj …Petitioner

Versus

State of Haryana and another …Respondents

CORAM: HON'BLE MR. JUSTICE M.M. KUMAR

HON'BLE MR. JUSTICE M.M.S. BEDI

PRESENT: Dr. Balram Gupta, Senior Advocate, with
Mr. Shireesh Gupta, Advocate,
for the petitioner.

JUDGMENT

M.M. KUMAR, J. (Oral)

The prayer made by the petitioner in the instant petition is for quashing order dated 30.10.2006 (P-10) by which he has been transferred from Municipal Council, Hisar to Municipal Council, Fatehabad. The allegation of the petitioner is that he has been transferred from Palwal to Hisar on 5.7.2005 and after a span of three months he was transferred from Hisar to Fatehabad and then again he was transferred from Fatehabad to Hisar. By the impugned order the last order has been reversed and he has been again transferred from Hisar to Fatehabad. An attempt has also been made to level allegation of mala fide against respondent No. 2 Shri R.K. Berwal, Executive Officer, Municipal Council, Fatehabad, by stating that it is at his instance that posting has been manipulated every time. It has

also been argued that the transfer is in violation of policy and guidelines for postings and transfers (P-11).

After hearing learned counsel, we are of the view that the impugned order is purely administrative in nature and transfer of the petitioner from Hisar to Fatehabad and reversing the same does not suffer from any mala fide because neither respondent No. 2 is his transferring authority nor he has any personal enmity with the petitioner. The only allegation levelled is that there is professional rivalry between the two and the transfer is actuated on account of that rivalry. How respondent No. 2 has exerted influence on respondent No. 1 which is the transferring authority and how he is related to respondent No. 1 has not been substantiated, which is far from satisfying the requirement of proving prima facie a case of mala fide. The other ground that there are policy guidelines, dated 7.4.1989 (P-11) has also not impressed us because it is well settled that these are merely administrative instructions and are not justiciable in a Court of law. Hon'ble the Supreme Court has repeatedly held that such guidelines cannot be enforced by issuance of writ of mandamus. In that regard reliance may be placed on the judgment of Hon'ble the Supreme Court in the case of **Union of India v. S.L. Abbas, (1993) 4 SCC 357**. It is equally well settled that transfer order could be interfered if found as a result of mala fide, against the service rules or if such an order has been passed by an incompetent authority. For the aforementioned proposition we draw support from the judgments of Hon'ble the Supreme Court in the cases of **State Bank of India v.**

Anjan Sanyal, (2001) 5 SCC 508 and **Kendriya Vidyalaya Sanghthan v. Demodar Prashad Pandey, (2004) 12 SCC 299**. It may be true that in certain cases of extreme hardship, namely, medical ground etc., the Court might have interfered but those orders do not constitute any binding precedent for us to follow. Therefore, there is no merit in this petition. Accordingly the same is dismissed.

(M.M. KUMAR)
JUDGE

(M.M.S. BEDI)

November 6, 2006
JUDGE

Pkapoor